

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 AMEER R. MUHAMMAD,

4 Plaintiff

5 v.

6 JAMES MILTON SKOMSVOLD, et al.,

7 Defendants

Case No.: 2:21-cv-01536-APG-EJY

Order Granting Lyft's Motion to Dismiss

[ECF No. 7]

8 In July 2019, plaintiff Ameer Muhammad was injured in a car accident involving
9 defendant James Skomsvold, who Muhammad alleges was working for defendants Lyft, Inc.
10 and/or Hertz Vehicles, LLC at the time of the accident. He sues all defendants for negligence
11 and negligence per se. ECF No. 1-3 at 6-8. He also sues Hertz and Lyft for negligent
12 entrustment. *Id.* at 8-9. Finally, he asserts against Lyft a claim for negligent hiring, training,
13 retention, and supervision. *Id.* at 10-11.

14 Lyft moves to dismiss the negligent hiring, training, retention, and supervision claim,
15 arguing that the claim is not supported by anything more than a conclusory recitation of the
16 claim's elements. Muhammad responds that the complaint was originally filed in Nevada state
17 court, which has a lesser pleading standard. But he contends he has adequately met the federal
18 pleading standard as well. Alternatively, he requests leave to amend if I conclude he has not
19 plausibly alleged this claim.

20 I grant Lyft's motion to dismiss because Muhammad's fourth claim is conclusory and
21 does not plead facts that would plausibly show that Lyft was negligent in hiring, training,
22 supervising, or retaining Skomsvold. However, I grant leave to amend because it is not clear that
23 amendment would be futile.

1 In considering a motion to dismiss, I take all well-pleaded allegations of material fact as
2 true and construe the allegations in a light most favorable to the non-moving party. *Kwan v.*
3 *SanMedica Int'l*, 854 F.3d 1088, 1096 (9th Cir. 2017). However, I do not assume the truth of
4 legal conclusions merely because they are cast in the form of factual allegations. *Navajo Nation*
5 *v. Dep't of the Interior*, 876 F.3d 1144, 1163 (9th Cir. 2017). A plaintiff must make sufficient
6 factual allegations to establish a plausible entitlement to relief. *Bell Atl. Corp. v. Twombly*, 550
7 U.S. 544, 556 (2007). Such allegations must amount to “more than labels and conclusions, [or] a
8 formulaic recitation of the elements of a cause of action.” *Id.* at 555.

9 “The tort of negligent hiring imposes a general duty on the employer to conduct a
10 reasonable background check on a potential employee to ensure that the employee is fit for the
11 position.” *Hall v. SSF, Inc.*, 930 P.2d 94, 98 (Nev. 1996) (quotation omitted). “An employer
12 breaches this duty when it hires an employee even though the employer knew, or should have
13 known, of that employee's dangerous propensities.” *Id.* Similarly, an employer “has a duty to
14 use reasonable care in the training, supervision, and retention of his or her employees to make
15 sure that the employees are fit for their positions.” *Id.* at 99.

16 Muhammad has not alleged any facts that make it plausible that Lyft knew or should
17 have known of Skomsvold's alleged dangerous propensities before or after it hired him. He also
18 has not alleged any facts regarding Lyft's alleged failure to train or supervise Skomsvold.
19 Instead, he presents only conclusory allegations combined with the fact that Skomsvold allegedly
20 caused the accident. Conclusory allegations tracking the elements of these claims are
21 insufficient. I therefore grant Lyft's motion to dismiss. Because it is not clear that amendment
22 would be futile, I grant Muhammad leave to amend this claim. *See Lopez v. Smith*, 203 F.3d
23 1122, 1127 (9th Cir. 2000).

1 I THEREFORE ORDER that defendant Lyft, Inc.'s motion to dismiss (ECF No. 7) is
2 **GRANTED.** Plaintiff Ameer Muhammad's fourth claim is dismissed without prejudice.

3 I FURTHER ORDER that by November 15, 2021, plaintiff Ameer Muhammad may file
4 an amended complaint correcting the deficiencies identified in this order if facts exist to do so.

5 DATED this 22nd day of October, 2021.

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ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE
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